Court No.1.

Civil Writ Petition No. 3471 (S/S) of 2001.

Jagdish Chandra Arya ……. Petitioner.

Versus

Senior Superintendent of Post Offices,
Nainital Division, Nainital & Another.
…… Respondents.

Hon'ble P.C. Verma, J.

This is a writ petition filed by the petitioner challenging the transfer order dated 03.05.2001, passed by respondent No. 1. This Court passed an interim order dated 01.08.2001 taking into account the date of superannuation of the petitioner as the petitioner is to superannuate on 31.03.2002. Therefore, transfer order was stayed. A counter affidavit has been filed on behalf of Union of India by Senior Superintendent of Post Offices to which rejoinder affidavit has been filed. In the counter affidavit stand has been taken that transfer order was stayed after the incumbent has joined and this fact was not within the notice of the Court on the day of passing of interim order. Had it been in the notice of the Court, the interim order might not have been passed. The learned counsel for the petitioner submits that apart from the short period of his superannuation, the order of transfer has been passed mala fide as the petitioner made a complaint of his subordinates who consumed liquor in the office and disturbed the functioning of the office. When no action was taken by the respondent No.1, then he again wrote a letter to him, a copy whereof was forwarded to

the senior Officer i.e. CPMG, Uttaranchal Circle, Dehradun. The respondent No. 1 took it otherwise and made a point to get the petitioner transferred.

Learned counsel for the respondents submits that for approaching the senior Officers without obtaining proper order from respondent No.1, the petitioner has already been warned and the petitioner has not been transferred singly for that reason seven other persons have been transferred. Therefore, the mala fide alleged has no nexus with the transfer order passed by respondent No.1.

Considering the facts and circumstances stated in the writ petition, I am of the opinion that the writ petition is liable to be dismissed. However, it is provided that the respondents may consider the fact that the petitioner is to superannuate on 31.03.2002 and as stated by learned counsel for the petitioner that he has decided to reside permanently in his village-Gethia, which is only 3 KMs. away from Nainital and may post the petitioner at Nainital, so that he may settle conveniently after the retirement.

With the aforesaid observation, the writ petition is dismissed.

Sd/-

13.08.2001
P. Singh